

PREDETERMINATION SETTLEMENT AGREEMENT

CP# 02-13-63858

HUD# 07-13-0349-8

PARTIES TO THE SETTLEMENT AGREEMENT:

RESPONDENTS

MEADOWLARK PLACE APARTMENTS, LLC

6900 Westown Parkway

West Des Moines, Iowa 50266-2520

HUBBELL CONSTRUCTION SERVICES, LLC

6900 Westown Parkway

West Des Moines, Iowa 50266-2520

WELLS & ASSOCIATES

520 42nd Street

Des Moines, Iowa 50312-2757

HUBBELL PROPERTY MANAGEMENT

6900 Westown Parkway

West Des Moines, Iowa 50266-2520

COMPLAINANT

MARY CHAPMAN

Commissioner, Iowa Civil Rights Commission

400 East 14th Street

Des Moines, Iowa 50319

and

IOWA CIVIL RIGHTS COMMISSION

400 East 14th Street

Des Moines, Iowa 50319

Description of the Parties:

At the time of filing this complaint, Complainant was a member of the Iowa Civil Rights Commission (hereinafter referred to as the Commission). Her term as a commissioner expired on April 30, 2013. Signing for Complainant is the current chairperson of the Commission, Angela Williams.

Complainant alleged Meadowlark Place Apartments, LLC, as owners of the subject property; Hubbell Commercial Construction Services, LLC, as builders of the subject property; Wells & Associates, as architects of the subject property; Hubbell Property Management, as manager of the subject property, discriminated against persons with disabilities because the common areas and first-floor rental units at

the subject property do not meet the design and construction accessibility requirements of the Fair Housing Act (FHA) or the Iowa Civil Rights Act (ICRA).

Description of the Subject Property

The subject property includes the common areas and all first-floor apartment units at the Meadowlark Place Apartments, 1000 SE 11th Street, Grimes, Iowa.

Predetermination Settlement Agreement

A complaint having been filed by Complainant against Respondents with the Commission under Iowa Code Chapter 216 and there having been a preliminary inquiry, including an inspection of the subject property, the parties do hereby agree and settle the above-captioned matter in the following extent and manner:

Acknowledgment of Fair Housing Laws

1. Respondents agree there shall be no discrimination, harassment, or retaliation of any kind against any person for filing a charge under the ICRA; or because of giving testimony or assistance, or participating in any manner in any investigation, proceeding or hearing under the ICRA; or because of lawful opposition to any practice forbidden under the ICRA.
2. Respondents agree to refrain from committing any act of discrimination in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities on the basis of race, color, creed, sex, sexual orientation, gender identity, national origin, religion, disability, or familial status, in violation of the ICRA.
3. Respondents acknowledge the FHA and ICRA make it unlawful to discriminate in the sale or rental of a dwelling, or otherwise make unavailable or deny a dwelling, to a buyer or renter on the basis of disability. 42 U.S.C. 3604(f)(1); Iowa Code § 216.8A(3)(a).

4. Respondents acknowledge the FHA and ICRC make it unlawful to discriminate in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with the dwelling on the basis of disability. 42 U.S.C. 3604(f)(2)(a) and Iowa Code § 216.8A(3)(b)(1)

5. Respondents acknowledge the FHA and ICRA make it unlawful to refuse to make reasonable accommodations in rules, policies, practices, or services, when the accommodations are necessary to afford person with a disability an equal opportunity to use and enjoy a dwelling. 42 U.S.C. 3604(f)(3)(b); Iowa Code § 216.8A(3)(c)(2).

6. Respondents acknowledge as owners, developers, builders, or managers of covered multifamily dwellings – ground-floor units in a building consisting of four or more dwelling units built for first occupancy after January 1, 1992 – must build those dwellings in compliance with specific design and construction accessibility requirements, in accordance with the FHA and ICRA. Iowa Code §216.8A(3)(c)(3); 42 U.S.C. §3604(f)(3)(C).

HUD has described these accessibility requirements via regulation and in several publications, including the “Final Fair Housing Accessibility Guidelines.” 24 C.F.R. Part 100.200 et seq.; 56 Fed. Reg. 9,472. In the “Guidelines,” HUD presented the seven specific requirements as:

1. Accessible building entrance on an accessible route.
2. Accessible and usable public and common areas.
3. Usable doors.
4. Accessible route into and through the covered dwelling unit.
5. Light switches, electrical outlets, thermostats and other environmental controls in accessible locations.
6. Reinforced walls for grab bars.
7. Usable kitchens and bathrooms.

Voluntary and Full Settlement

7. The parties acknowledge this Predetermination Settlement Agreement (hereinafter referred to as the Agreement) is a voluntary and full settlement of the disputed complaint. The parties affirm they

have read and fully understand the terms set forth herein. No party has been coerced, intimidated, threatened, or in any way forced to become a party to this Agreement.

8. The parties enter into this Agreement in a good faith effort to amicably resolve existing disputes. The execution of this Agreement is not an admission of any wrongdoing or violation of law. Nor is the execution of this Agreement an admission by Complainant that any claims asserted in her complaint are not fully meritorious.

9. The parties agree the execution of this Agreement may be accomplished by separate counterpart executions of the Agreement. The parties agree the original executed signature pages will be attached to the body of this Agreement to constitute one document.

10. Respondents agree the Commission may review compliance with this Agreement. And as part of such review, Respondents agree the Commission may examine witnesses, collect documents, or require written reports.

Release

11. Complainant hereby waives, releases, and covenants not to sue Respondents with respect to any matters which were, or might have been alleged as charges filed with the Iowa Civil Rights Commission, the Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, or any other anti-discrimination agency, subject to performance by Respondents of the promises and representations contained herein. Complainant agrees any complaint filed with any other anti-discrimination agency, including the Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, which involves the issues in this complaint, shall be closed as Satisfactorily Adjusted.

Disclosure

12. The parties agree the terms of this Agreement shall be subject to public disclosure unless Complainant and Respondents agree otherwise, and the Commission determines that disclosure is not necessary to further the purposes of the ICRA relating to unfair or discriminatory practices in housing or real estate.

13. The parties agree the reports, documents, and information that will be provided to the Commission by Respondents pursuant to the terms of this Agreement shall not be subject to public disclosure and shall be kept confidential to the extent allowed by "Examination of Public Records (Open Records)," Iowa Code Chapter 22.

Required Modifications or Retrofits

14. Respondents agree to make the following modifications or retrofits to the subject property:

Accessible Building Entrance on an Accessible Route

(a) The parties agree the exterior doors are fire doors. The parties agree there are ten exterior doors – two exterior doors for each of Buildings 1, 2, 3, and 4, and two for the Community Building.

The parties agree that the 2009 International Fire Code requirement for fire doors is a maximum of 15 pounds of force to open, whereas ANSI A117.1 1986 only allows up to 8.5 pounds of force to open.

Respondents agree they will adjust all exterior doors to meet the requirements of the FHA (ANSI A117.1 1986), so no exterior door requires more than 8.5 pounds of force to open.

(b) The parties agree there are 52 interior doors – 12 within each of the four buildings (one entry for each of the first-floor units, one at each end of the interior hallway), and four at the Community Building (one at the vestibule located at the south-facing entrance and one each to the fitness center, the business center, and the theater).

Respondents agree they will adjust all 52 interior doors to meet the requirements of the FHA and ICRA (ANSI A117.1 1986), so none requires more than 5 pounds of force to open.

Accessible and Usable Public and Common Use Areas

(a) The parties agree the cross slope and running slope of the sidewalk adjacent to the northwest of the Community Building exceeds the maximum slope established in ANSI A117.1 1986.

(b) Respondents agree they will remove and replace the existing sidewalk to a measurement at or below a running slope of 5% and at or below a cross slope of 2% as shown in Exhibit "A." Respondents will install two handrails on each side of the sidewalk leading to the Community Building in compliance with the FHA and ICRA (ANSI A117.1 1986), as shown in Exhibit "A."

Interior Recreation Area

(a) The parties agree ANSI A117.1 1986 requires at least one of each type of exercise equipment/machine in the fitness center to have clear floor or ground space. The parties also agree each type of exercise equipment/machine in the fitness center does not have the required clearance space.

(b) Respondents agree they will rearrange the exercise equipment machines located in the fitness center so that at least one of each type will have clear floor or ground space of at least 30 inches by 48 inches, to meet the requirements of the FHA and ICRA (ANSI A117.1 1986).

Exterior Recreation Area

(a) The parties agree the running slope of the sidewalk to the east of Building 3, which runs north and south, as shown in Exhibit "B," exceeds the maximum slope established in ANSI A117.1 1986.

(b) Respondents agree they will remove and replace the existing sidewalk to the east of Building 3, as shown in Exhibit "B," to a measurement at or below a running slope of 5%, to meet the requirements of the FHA and ICRA (ANSI A117.1 1986).

(c) The parties agree there is a path with steps, beginning at the rear entrances of Buildings 3 and 4 and continuing to a common use area, as shown in Exhibits "C" and "D." The parties agree this path is inaccessible to persons with disabilities.

(d) Respondents agree they will install a sidewalk at a running slope measurement of 5% or less as set forth in Exhibits "C" and "D," to meet the requirements of the FHA and ICRA (ANSI A117.1 1986).

Dumpsters

(a) The parties agree the garbage dumpsters and containers for recyclables, housed in four fenced-in areas, have top-loading lids that are not within the reach range of a person who requires the use of a wheelchair, as specified in ANSI A117.1 1986.

(b) Respondents agree they will install a concrete pad outside of each of the four fenced-in dumpster/container enclosures; and, on those pads, they will place new dumpsters and containers that are within the reach range of a person who requires the use of a wheelchair, to meet the requirements of the FHA and ICRA (ANSI A117.1 1986).

(c) In addition, Respondents agree to provide reasonable accommodations as necessary to assist disabled tenants in placing trash or recyclables in dumpsters or containers.

Mailboxes

(a) The parties agree the mailboxes for tenants in the first-floor units exceed the reach range of a person who requires the use of a wheelchair, as specified in ANSI A117.1 1986.

(b) Respondents agree they will rearrange the mailbox numbers to provide all first-floor tenants with mailboxes that do not exceed the height of 48 inches as required by the FHA and ICRA (ANSI A117.1 1986).

Laundry Room

(a) The parties agree the laundry room door in each ANSI Type-B unit, as indicated in Exhibit “1,” is a secondary door that measured below the minimum clear opening width standard of 32 inches, as specified in ANSI A117.1 1986.

(b) Respondents agree they will remove the sliding door to the laundry room in each of the ANSI Type-B units to provide a clear opening at or above 32 inches, to meet the requirements of the FHA and ICRA (ANSI A117.1 1986).

Accessible Route Into and Through the Covered Unit

(a) The parties agree the plastic pipe lying on the floor in some of the first-floor unit laundry rooms obstructs a path to the washing machine for a person with a disability requiring the use of a wheelchair.

(b) Respondents contend ANSI A117.1 1986 does not mandate an accessible path to the laundry equipment within a particular dwelling unit. However, as necessary, Respondents agree they will place the washer and dryer directly above the plastic pipe, thereby removing it as an obstruction, as a reasonable accommodation, as necessary.

(c) The parties agree the interior hallway in Unit 2103 measured 35.5 inches wide due to a molding located on a bedroom door, which is less than the minimum 36 inches required by ANSI A117.1 1986.

(d) Respondents agree they will remove the molding from the bedroom door in Unit 2103 and will ensure that the interior hallways in all other similar units (ANSI Type-B/Unit Type-A) have no such inhibitive moldings, to meet the requirements of the FHA and ICRA (ANSI A117.1 1986).

Light Switches, Electrical Outlets, Thermostats, and Other Environmental Controls in Accessible Locations

(a) The parties agree the height of the pull-chain medallion for the ceiling fans in each of the inspected units measured in excess of the accessible location requirement of ANSI A117.1 1986.

(b) Respondents contend ANSI A117.1 1986 does not apply to the height of the pull-chain medallion because there is an accessible wall switch in the same room that operates to turn the fan on/off. However, Respondents agree they will add an extension to the pull-chain medallion as necessary as a reasonable accommodation.

Doorbell Intercom Control

(a) The parties agree the height for the doorbell intercom control in units 1101, 1109, and 2103 measured in excess of the accessible location requirement of ANSI A117.1 1986.

(b) Respondents agree they will move the doorbell intercom controls in units 1101, 1109, and 2103 to a height at or below 48 inches, and will ensure the doorbell intercom controls in the remaining first-floor units are at or below a height of 48 inches, to meet the requirements of the FHA and ICRA (ANSI A117.1 1986).

Thermostat Control

(a) The parties agree the height for the thermostat control in Unit 1109 measured in excess of the accessible location requirement of ANSI A117.1 1986.

(b) Respondents agree they will move the thermostat control in Unit 1109 to a height at or below 48 inches and will ensure the thermostat controls in the remaining first-floor units are at or below a height of 48 inches, to meet the requirements of the FHA and ICRA (ANSI A117.1 1986).

Kitchen Electrical Outlets

(a) The parties agree the electrical outlets above the kitchen counter surface and below the cupboards in Units 1101 and 4105 measured less than 36 inches from the corners, which is less than the minimum required by ANSI A117.1 1986.

(b) Respondents agree they will install additional outlets above the kitchen counter surface and below the cupboards in Units 1101 and 4105 at or exceeding 36 inches from the corners, to meet the requirements of the FHA and ICRA (ANSI A117.1 1986).

(c) Respondents agree they will install additional outlets above the kitchen counter surface and below the cupboards in the remaining first-floor units if necessary to meet the requirements of the FHA and ICRA (ANSI A117.1 1986).

Reinforced Walls for Grab Bars

(a) The parties agree the bathroom walls need to support proposed future grab bars in Type-B units, meet the adaptable reinforcement requirements of ANSI A117.1 1986, as evidenced by a letter from Structural Engineer Erik Raker, Exhibit "E."

(b) The parties agree the Fair Housing Act Design Manual (FHADM at 6.3) recommends that building owners and managers permanently mount directions for the installation of grab bars where applicable.

(c) Respondents agree they will laminate the drawing shown in Exhibit "F" as directions for the installation of grab bars, and will post this laminated drawing at a conspicuous location within each first-floor unit and will maintain the drawing at their leasing office.

Usable Kitchens

(a) The parties agree the clearance space between the kitchen island and the opposing base cabinets, countertops, appliances, and walls in the Type-B first-floor units shall comply with the 40-inch minimum clearance space required by ANSI A117.1 1986.

(b) Respondents agree to move the kitchen island in the Type-B first-floor units the necessary distance to comply with the minimum allowable clearance space of 40 inches to meet the requirements of the FHA and ICRA (ANSI A117.1 1986).

Usable Bathrooms

Unit 2103

(a) The parties agree the distance between the midline of the toilet to the wall in the bathroom of Unit 2103 measures less than the required minimum by $\frac{1}{4}$ inch, as required by ANSI A117.1 1986.

(b) Respondents agree to move the toilet $\frac{1}{4}$ inch in Unit 2103 to meet the requirements of the FHA and ICRA (ANSI A117.1 1986).

(c) The parties agree the depth and width of the shower stall must meet the minimum 36 by 36 inches dimensions of usable space, as required by ANSI A117.1 1986.

(d) Respondents agree they will remove and replace the showers in all first-floor ANSI Type-B – Unit Type A and ANSI Type-B – Unit Type B units with a shower that meets or exceeds the minimum 36 by 36 inch dimension requirement, in accordance with the FHA and ICRA (ANSI A117.1 1986). Respondents agree the replacement showers will be similar to the shower as shown in Exhibit “G.”

Unit 1104

(a) The parties agree the width of the knee space provided under the bathroom sink in Unit 1104 is less than 30 inches as required by ANSI A117.1 1986.

(b) Respondents agree they will remove and replace the bathroom sink and vanity with a bathroom sink and vanity as shown in Exhibit “H” that allows for a minimum of 30 inches of knee space in Unit 1104 and in all Type-A units, to meet the requirements of the FHA and IRCA (ANSI A117.1 1986).

Unit 4105

(a) The parties agree, in the Specification-B bathroom in Unit 4105, the measurement from the wall to the midline of the sink is less than the minimum required by ANSI A117.1 1986.

(b) The parties agree, in the Specification-A bathroom in Unit 4105, the measurement from the wall to the midline of the sink is less than the minimum required by ANSI A117.1 1986.

(c) Respondents agree they will remove and replace the existing sink and vanity in the Specification-B bathroom of Unit 4105 and in the Specification-B bathrooms of all similar units (ANSI Type-B/Unit Type-D) units located on the first floor with a sink and vanity that has a minimum of 30 inches of knee space as required by the FHA and ICRA (ANSI A117.1 1986). The parties agree, once this is accomplished, the Specification-B bathroom in Unit 4015 and in the Specification-B bathrooms of all the other units of the same type (ANSI Type-B/Unit Type-D) will meet the usable requirements set forth in the FHA and ICRA (ANSI A117.1 1986), causing any additional Specification-A bathrooms in those units to be exempt from the maneuvering and clear floor space requirements of ANSI A117.1 1986.

Unit 4101

(a) The parties agree the space between the wall and the midline of the sink in the bathroom of Unit 4101 is less than the minimum 24 inches for a side approach by a person who requires the use of a wheelchair as required by ANSI A117.1 1986.

(b) Respondents agree they will remove and replace the existing sink and vanity in the bathroom of Unit 4101 with a sink and vanity as shown on Exhibit "H" that will allow a front approach for a person who requires the use of a wheelchair, with a minimum of 30 inches of knee space in all other similar units of the same kind (ANSI Type-A / Two-Bedroom), to meet the requirements of the FHA and ICRA (ANSI A117.1 1986).

Bathroom Towel Racks

(a) The parties agree it makes sense to make the bathroom towel rack fixtures in first floor units accessible as a reasonable accommodation and that such fixtures are not specifically addressed in ANSI A117.1 1986.

- (b) Respondents agree they will adjust the bathroom towel racks in all first-floor units to a height not to exceed 48 inches as a reasonable accommodation when necessary.

Required Timelines for Completion of Modifications or Retrofits

15. Respondents agree, for any tenant who makes a reasonable accommodation request that concerns one or more of the above-required modifications or retrofits, they will allow the tenant to make the decision whether the above-required modifications or retrofits are made during their tenancy. Respondents also agree those tenants who make that decision will be allowed to remain in their units while the renovations are being completed, so long as their continued stay is safe and does not unduly disrupt the renovation work. If their continued stay is not safe or unduly interferes with renovation work, Respondents agree to move the affected tenants to another suitable unit on a temporary basis, until the unit is made safe or the renovation work is completed. Respondents agree to pay all costs generated by such move.

16. Respondents agree to make the above-required modifications or retrofits as each of the subject first-floor units becomes vacant. Respondents agree to make the modifications or retrofits before the unit is rented again.

Mandatory Reporting Requirements

17. Respondents agree to notify the Commission when they have completed the required modifications or retrofits for each and every subject first-floor unit and common use area. Such notification shall be made within 30 days of completion. These required notifications to the Commission will continue until all required modifications or retrofits have been completed in all 40 first-floor units, listed in the attached table, Exhibit "1."

18. Respondents agree, as the required modifications or retrofits are made to a particular unit or common area, the Commission may then inspect such unit or common area, and then report the results of its inspection, addressing any outstanding deficiencies, in writing and within 30 days of the inspection, to Respondents.

If the inspection indicates outstanding deficiencies, Respondents shall correct all such deficiencies within a reasonable period of time as determined by the Commission, and shall pay a reasonable fee for another inspection by Commission staff or pay for an inspection by a third party inspector, approved by the Commission.

19. The sale or transfer of ownership, in whole or in part, by any owner of the subject property will not affect any obligation to modify or retrofit the subject property as specified in this Agreement, unless Respondents have obtained, in writing, as a condition of sale or transfer, the purchaser or transferee's commitment to be bound by the terms of this agreement to complete all required modifications or retrofits as specified in this Agreement.

20. Within 30 days of receiving a closing letter from the Commission, Respondents agree to provide a written statement to the Commission, to the attention of Don Grove, Supervisor of Housing Investigations, that specifies how each of the above-required modifications or retrofits will be corrected and provides the estimated cost of the materials and labor necessary to make each modification or retrofit.

21. Respondents agree they will inspect all "covered multifamily dwellings," as defined by Iowa Code §§216.2(4) and 216.8A(3)(c)(3), that they developed, built, or currently own or manage – individually or collectively – within the state of Iowa, with a first Certificate of Occupancy issued on or after September 1, 2012, for compliance with the design and construction accessibility requirements in the FHA and ICRA.

Respondents agree, for each of those covered multifamily dwellings, they will report to the Commission: (1) the property name and address, (2) the developer and builder's name(s) and address(es), (3) the owner and manager's name(s) and address(es), and (4) the date when the first dwelling unit was rented or sold. Respondents agree to provide that report within 30 days of receiving a closing letter from the Commission.

Respondents also agree, for each of those covered multifamily dwellings, they will report to the Commission within six (6) months of receiving a closing letter from the Commission whether their inspection(s) uncovered any deficiencies or violations of the FHA or ICRA (ANSI A117.1 1986). If their inspection(s) uncovered any deficiencies or violations, Respondents agree to report and describe each

deficiency or violation in detail, and propose a plan with timelines to make all necessary modifications or retrofits.

[Please go to next page for signature page]

Meadowlark Place Apartments, LLC

Date

RESPONDENT

Hubbell Construction Services, LLC

Date

RESPONDENT

Wells & Associates

Date

RESPONDENT

Hubbell Property Management

Date

RESPONDENT

Mary Chapman, COMPLAINANT

Date

Commissioner Chapman's term as a member of the Iowa Civil Rights Commission expired on April 30, 2013. Angela Williams, a current Commissioner, is signing the agreement in Ms. Chapman's stead.

Beth Townsend, Director

Date

IOWA CIVIL RIGHTS COMMISSION